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SEP 11 2006

PATENT
Attorney Docket No. YOR999-014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Pravin Bhagwat et al.

Serial No: 09/240,374

Filed: January 29, 1999

For: PERFORMANCE OF
INTERMEDIATE NODES WITH FLOW
SPLICING

Examiner: Phuongchau Ba
Nguyen

Art Unit: 2665

CERTIFICATE OF SUBMISSION BY FACSIMILE

PTO FAX NUMBER: 571-273-8300
TOTAL NUMBER OF PAGES: 9

Dear Sir:

I hereby certify that the following documents are being
transmitted to the U.S. Patent and Trademark Office on the date
shown below:

1. REQUEST FOR RECONSIDERATION (8 pages); and
2. this CERTIFICATE OF SUBMISSION BY FACSIMILE (1 page).

If you did not receive all the pages, please telephone us at
718-544-1110, or fax us at 718-544-8588.

Respectfully submitted,

Dated: September 1, 2006



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REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.137(e)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This petition is made under 37 CFR §1.137(e) for reconsideration of the Decision mailed July 10, 2006 refusing to revive the above-referenced patent application, and setting a two-month deadline for filing a request for consideration expiring September 11, 2006, since September 10, 2006 falls on a Sunday.

Statement of the Facts

A Notice of Allowance for the present application was mailed on August 23, 2005, setting a response deadline of November 24, 2005. The Notice of Allowance required payment of an Issue Fee. The Notice of Allowance further indicated that corrected drawings were necessary; referring to a Notice of Draftperson's Drawing Review dated January 16, 2002.

A response to the Notice of Allowance was not filed by November 23, 2005, causing the application to become abandoned.

On March 22, 2006 a Petition for Revival was filed. The petition included authorization for payment of the outstanding Issue Fee. Corrected drawings were not submitted with the Petition for Revival.

Patent Application No. 09/821,168

A decision on the merits for the Petition for Revival was mailed July 10, 2006. The Decision refused revival of the application because corrected drawings were not submitted with the Petition for Revival.

Argument

The Notice of Allowance mailed August 23, 2005 refers to a Notice of Draftperson's Drawing Review dated January 16, 2002. According to the Applicant's records, however, no such draftperson's notice exists.

The communication received by the Patent Office on January 16, 2002, submitted in full herewith as Exhibit A, does not include a draftperson's notice. The Applicants therefore believe that reference in the Notice of Allowance to the draftperson's notice was made in error.

Since a draftperson's notice does not appear in the record, submission of corrected drawings are not believed necessary to fully respond to the Notice of Allowance. If, upon review of this petition, corrected drawings are still considered necessary, a copy of the draftperson's notice is kindly requested to be faxed to the fax number below.

No fee is believed due with this Petition, however, should a fee be required please charge Deposit Account 50-0510. Should any extensions of time be required, please consider this a petition thereof and charge Deposit Account 50-0510 the required fee.

Respectfully submitted,

Dated: September 11, 2006



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UNITED STATES PATENT

Exhibit A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20261
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/240,374	01/29/1999	PRAVIN BHAGWAT	YO999-014	7258

7590 01/16/2002

LOUIS P HERZBERG
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
P O BOX 218
YORKTOWN HEIGHTS, NY 10598

EXAMINER

NGUYEN, PHUONGCHAU BA

ART UNIT PAPER NUMBER

2663

DATE MAILED: 01/16/2002

Due 4/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

OTO

Office Action Summary	Application No. 09/240,374		Applicant(s) BHAGWAT ET AL. B	
	Examiner Phuongchau Ba Nguyen		Art Unit 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 1-29-1999 application.

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-58 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) 1,2,7-53 and 55-58 is/are allowed.

6) ☒ Claim(s) 3-6 and 54 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

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Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should avoid using phrases which can be implied, such as, "The invention relates to"(abstract, line 1).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 3-6 and 54 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The subject matters in claims 3-6 such as "the first node and the second node are the same node"(claims 3 & 54); "the first node and intermediate node are the same node"(claim 4); "the second node and the intermediate node are the same node"(claim 5); "the first node, the second node, and the intermediate node are all the same node"(claim 6) are enabling the forming steps/functions of a first connection between the first node and the intermediate node, a second connection between the second node and the intermediate node, and splicing step/function for forming a first composite flow between the first node and the second node (claims 1-2 & 52).{see specification of the disclosure on page 19, lines 29-30}

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Allowable Subject Matter

4. The following is an examiner's statement of reasons for allowance:

Claims 1-2, 7-53, 55-58 are allowable because the prior art of the record fails to teach "splicing the first flow and third flow to form a first composite flow originating at the first source flow end on the first node and terminating at the third destination flow end point on the second node in a manner whereby the second flow and the fourth flow remain unchanged" which is considered in combination with other limitations that recited in claims 1-2, 7-53, 55-58.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bhagwat et al (5,941,988) discloses a method of merging two separate TCP connections terminating at a common host and gluing (splicing) them into a single connection between two end systems.

Lacas et al (5,245,604) discloses a method for splicing stations into a sequence or splicing stations out of the sequence in accordance with communications from such stations with effecting the operation of other stations in the sequence.

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Dowd et al (6,141,755) discloses an active connection management for determining the approval of a connection based on signaling information and network state information. Once a flow has been validated, the cells associated with that flow are allowed to proceed through the firewall at line-speed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 703-305-0093. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.


Phuongchau Ba Nguyen
Examiner
Art Unit 2665

January 14, 2002



Notice of References Cited	Application/Control No. 09/240,374	Applicant(s)/Patent Under Reexamination BHAGWAT ET AL.	
	Examiner Phuong Chau Ba Nguyen	Art Unit 2000	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,941,988	08-1999	Bhagwat et al.	713/201
	B	US-5,245,604	09-1993	Lacas et al.	370/254
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign

U.S. Patent and Trademark Office
 PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 4